UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/379,167	08/23/1999	BRUCE EISEN	M-7729-US	9947

24251 7590 05/16/2002

SKJERVEN MORRILL LLP
25 METRO DRIVE
SUITE 700
SAN JOSE, CA 95110

EXAMINER
YOUNG, JOHN L

ART UNIT	PAPER NUMBER
3622	12

DATE MAILED: 05/16/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.	Applicant(s)
09/379,167	Eisen et al.
Examiner	**Art Unit**
John Young	3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *Mar 1, 2002* .

2a) ☒ This action is **FINAL.** 2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-56* is/are pending in the application.

4a) Of the above, claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-56* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____ .
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

a) ☐ The translation of the foreign language provisional application has been received.

15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
4) ☐ Interview Summary (PTO-413) Paper No(s). _____
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other:

****

IMPORTANT NOTICE

****

Effective April 21, 2002, the Examiner handling this application will be assigned to a new Art Unit as a result of a Technology Center reorganization.

For any written or facsimile communication submitted ON OR AFTER April 21, 2002, this Examiner, who was assigned to Art Unit 2162, will be assigned to Art Unit 3622.

Please include the new Art Unit in the caption or heading of any communication submitted after the April 21, 2002 date. Your cooperation in this matter will assist in the timely processing of the submission and is appreciated by the Office.

FINAL REJECTION

DRAWINGS

1. This application has been filed with drawings that are considered informal; however, said drawings are acceptable for examination and publication purposes. The review process for drawings that are included with applications on filing has been modified in view of the new requirement to publish applications at eighteen months after the filing date of applications, or any priority date claimed under 35 U.S.C. §§119, 120, 121, or 365.

STATUS OF CLAIMS

2. Claims 1-56 are pending; and

Claims 57-74 are canceled by Applicant.

IMPROPER AMENDMENT OBJECTION—37 C.F.R. 1.121

3. "When an amendment substantially responds to the rejections . . . in a non-final Office action (and is a *bona fide* attempt to advance the application to final action) but contains a minor deficiency . . . the examiner may simply act on the amendment and issue a new (non-final or final) Office action." (See MPEP 714.03).

The marked up copies of some of the amended claims differ from the clean versions of said amended claims. The Examiner has interpreted and relied on the marked up versions as appropriate. For example, the clean versions of amended claims 3 & 4

recite in line 1 respectively: "The method of claim 1. . . ." However, the marked up copies of amended claims 3 & 4 recite: "The method according to claim 2. . . ."

Another example of an improperly amended claim is found in claim 6. The original claim at lines 1-2 recites: "wherein the plurality of accessed Internet web sites. . . ."

The clean version of amended claim 6, lines 1-2 recites: "wherein the one or more web sites. . . ."; however, the marked up version of amended claim 6 fails to underline the phrase "one or more" to indicate that said phrase is now added in the amended claim.

The amended claims should be checked carefully by Applicant's representative; appropriate corrections are required to comply with 37 C.F.R. 1.121

CLAIM REJECTIONS — 35 U.S.C. §103(a)

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Independent claims 1 & 22 and dependent claims 5, 26 & 45-46, are rejected under 35 U.S.C. §103(a) as being unpatentable over Dedrick, US 5,724,521 (3/3/1998) (herein referred to as "Dedrick") in view of Deaton 6,292,786 (09/18/2001) [US f/d: 08/11/1999] (herein referred to as "Deaton") in view of Angles 5,933,811 (08/03/1999) (herein referred to as "Angles") and

further in view of Gardneswartz, US 6,055,573 (Apr. 25, 2000) [US f/d: Jan. 7, 1999] (herein referred to as "Gardneswartz").

As per claim 1, Dedrick (FIG. 1 through FIG. 5; FIG. 6a; FIG. 6b; FIG. 7a; col. 1, ll. 14-21; col. 3, ll. 29-67; col. 15, ll. 15-31; col. 4, ll. 1-67; col. 7, ll. 9-15 and the ABSTRACT) shows elements that suggest the method of claim 1.

Dedrick lacks an explicit recital of the electronic mail elements and limitations of claim 1.

Deaton (FIG. 8B; FIG. 8C; and FIG. 1) shows elements that suggest electronic mail elements and limitations as claimed in claim 1.

Deaton proposes e-mail generation modifications that would have applied to the method and system of Dedrick. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the teachings of Deaton with the method and system of Dedrick because such combination would have provided means wherein *"[customers] may be induced to loyalty to a particular store. . . ."* (see Deaton (col. 19, ll. 1-10)) and because such combination would have provided means for comparing *"The characteristics of the individual end users with a consumer scale associated with the electronic advertisement."* (See Dedrick (col. 2, ll. 5-7)).

Dedrick (in view of Deaton) lacks an explicit recital of the consumer tracking elements and limitations of claim 1.

Angles (col. 2, ll. 35-42; FIG. 3; FIG. 4; FIG. 5; and FIG. 6) shows elements that suggest: "tracking the consumer's movement within the one or more web sites. . . ."

Angles provides consumer tracking modifications that would have applied to the method and system of Dedrick. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the modifications of Angles with the method and system of Dedrick because such modifications would have provided a means of "merging the electronic page . . . and the customized advertisement" in conjunction with e-mail distribution. (See Angles col. 23, ll. 5-35).

Dedrick (in view Deaton and Angles) lacks an explicit recital of all of the elements and limitations of claim 1 even though said references suggest same.

Gardenswartz (col. 2, ll. 18-35; the ABSTRACT; FIG. 1; FIG. 5; FIG. 9; col. 11, ll. 4-65) shows elements that suggest: "A method for electronically profiling consumer interests. . . ."

Gardenswartz (FIG. 2a; FIG. 3; FIG. 7; col. 3, ll. 18-22; col. 5, ll. 43-60) discloses a unique *"Customer Identification. . . . CID. . . ."* number.

Gardenswartz proposes *"Customer Identification. . . . CID. . . ."* modifications that would have applied to the method and apparatus of Dedrick. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the teachings of Gardenswartz with the disclosure of Dedrick because such combination would have provided means for *"[tracking] a consumer's online activity. . . ."* (See Gardenswartz (col. 2, ll. 19-21)).

Gardenswartz (FIG. 7; col. 8, ll. 41-56; col. 11, ll. 4-65; col. 13, ll. 50-67; and col. 14, ll. 1-67) shows elements that suggest:

embedding a unique identifier within a web site address, the unique identifier uniquely identifying a consumer; including the web site address in an electronic mail message sent to a consumer's computer, wherein the web site address provides access to one or more web sites; establishing a connection between the consumer's computer and the one or more web sites, in response to a consumer selecting a reference to the web site address included in the electronic mail message; receiving a consumer request to access the one or more web sites, wherein the consumer request includes the web site address in the electronic mail message; parsing the web site address in the consumer request to find the unique identifier. . . .

Gardenswartz lacks an explicit recitation of:

embedding a unique identifier within a web site address, the unique identifier uniquely identifying a consumer; including the web site address in an electronic mail message sent to a consumer's computer, wherein the web site address provides access to one or more web sites; establishing a connection between the consumer's computer and the one or more web sites, in response to a consumer selecting a reference to the web site address included in the

> electronic mail message; receiving a consumer request to access the one or more web sites, wherein the consumer request includes the web site address in the electronic mail message; parsing the web site address in the consumer request to find the unique identifier. . . .

even though Gardenswartz (FIG. 7; col. 8, ll. 41-56; col. 11, ll. 4-65; col. 13, ll. 50-67; and col. 14, ll. 1-67) suggests same. It would have been obvious to a person or ordinary skill in the art at the time of the invention that the disclosure of Gardenswartz (FIG. 7; col. 8, ll. 41-56; col. 11, ll. 4-65; col. 13, ll. 50-67; and col. 14, ll. 1-67) would have been selected in accordance with:

> embedding a unique identifier within a web site address, the unique identifier uniquely identifying a consumer; including the web site address in an electronic mail message sent to a consumer's computer, wherein the web site address provides access to one or more web sites; establishing a connection between the consumer's computer and the one or more web sites, in response to a consumer selecting a reference to the web site address included in the electronic mail message; receiving a consumer request to access the one or more web sites, wherein the consumer request includes the

web site address in the electronic mail message; parsing the web site address in the consumer request to find the unique identifier. . . .

because such selection would have provided means "for delivering targeted advertisements to a consumer based on his or her . . . purchase history." (See Gardenswartz (col. 2, ll. 56-61)).

Gardenswartz (col. 2, ll. 3-35; FIG. 2a; FIG. 3; FIG. 7; col. 3, ll. 18-22; and col. 5, ll. 43-60) shows elements that suggest "tracking the consumer's movement within the one or more web sites by associating the unique identifier with information that defines consumer activity withing said one or more web sites."

Gardenswartz lacks an explicit recitation of "tracking the consumer's movement within the one or more web sites by associating the unique identifier with information that defines consumer activity withing said one or more web sites. . . ." even though Gardenswartz (col. 2, ll. 18-35; FIG. 2a; FIG. 3; FIG. 7; col. 3, ll. 18-22; and col. 5, ll. 43-60) suggests same. It would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of Gardenswartz (col. 2, ll. 18-35; FIG. 2a; FIG. 3; FIG. 7; col. 3, ll. 18-22; col. 5, ll. 43-60) would have been selected in accordance with "tracking the consumer's movement within the one or more web sites by associating the unique identifier with information that defines consumer activity withing said one or more web sites. . . ." because such selection would have provided means for *"[tracking] a consumer's online activity. . . ."* (See Gardenswartz (col. 2, ll. 19-21)).

As per claim 5, Dedrick in view of Deaton, Angles and Gardenswartz shows the method of claim 1.

Dedrick lacks an explicit recitation of the elements of claim 5.

Gardenswartz (col. 5, ll. 43-60; and col. 3, ll. 45-60) discloses elements that suggest "the unique identifier identifies a consumer's electronic mail address."

Gardenswartz proposes unique identifier and e-mail modifications that would have applied to the method and apparatus of Dedrick. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the teachings of Gardenswartz with the disclosure of Dedrick because such combination would have provided means for *"[tracking] a consumer's online activity. . . ."* (See Gardenswartz (col. 2, ll. 19-21)).

Claim 22 is rejected for substantially the same reasons as claim 1.

Claim 26 is rejected for substantially the same reasons as claim 5.

Claim 45 is rejected for substantially the same reasons as claim 1.

As per claim 46, Dedrick in view of Deaton, Angles and Gardneswartz shows the method of claim 45.

Dedrick lacks an explicit recitation of "extracting the information that defines consumer activity based on its association with the unique identifier to track consumer movement."

Gardneswartz (the ABSTRACT; col. 2, ll. 3-35; FIG. 1; FIG. 2a; FIG. 3; FIG. 5; FIG. 7; FIG. 9; col. 3, ll. 18-22; col. 5, ll. 43-60; col. 8, ll. 41-56; col. 11, ll. 4-65; col. 13, ll. 50-67; and col. 14, ll. 1-67) shows elements that suggest: "extracting the information that defines consumer activity based on its association with the unique identifier to track consumer movement."

Gardenswartz proposes unique identifier modifications that would have applied to the method and apparatus of Dedrick. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the teachings of Gardenswartz with the disclosure of Dedrick because such combination would have provided means for *"[tracking] a consumer's online activity. . . ."* (See Gardenswartz (col. 2, ll. 19-21)).

5. Dependent claims 2-4, 6-21, 23-25, 27-44 & 47-49 are rejected under 35 U.S.C. §103(a) as being unpatentable over Dedrick in view of Deaton, Angles and Gardneswartz and further in view of Barber US 6,289,318 (Sep. 11, 2001) [US f/d: Mar. 24, 1999] (herein referred to as "Barber").

As per claim 2, Dedrick in view of Deaton, Angles and Gardneswartz shows the method of claim 1.

Dedrick lacks an explicit recitation of "storing in a log file the unique identifier in association with the information that defines consumer activity; and extracting the information that defines consumer activity based on its association with the unique identifier to track consumer movement."

Gardneswartz (the ABSTRACT; col. 2, ll. 3-35; FIG. 1; FIG. 2a; FIG. 3; FIG. 5; FIG. 7; FIG. 9; col. 3, ll. 18-22; col. 5, ll. 43-60; col. 8, ll. 41-56; col. 11, ll. 4-65; col. 13, ll. 50-67; and col. 14, ll. 1-67) shows elements that suggest: "extracting the information that defines consumer activity based on its association with the unique identifier to track consumer movement."

Gardenswartz proposes unique identifier modifications that would have applied to the method and apparatus of Dedrick. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the teachings of Gardenswartz with the disclosure of Dedrick because such combination would have provided means for *"[tracking] a consumer's online activity. . . ."* (See Gardenswartz (col. 2, ll. 19-21)).

Dedrick does not explicitly show: "storing in a log file the unique identifier in association with the information that defines consumer activity. . . ."

Barber (col. 2, ll. 5-14; and col. 2, ll. 39-59) shows elements that suggest "storing in a log file the unique identifier in association with the information that defines consumer activity. . . ."

Barber proposes *"log file"* and tracking modifications that would have applied to the method and apparatus of Dedrick. It would have been obvious to a person of ordinary

skill in the art at the time of the invention to combine the teachings of Barber with the disclosure of Dedrick because such *"consumer tracking is widely used, and is regarded as a valuable source of marketing information."* (See Barber (col. 2, ll. 55-59)).

As per claim 3, Dedrick in view of Deaton, Angles, Gardenswartz and Barber shows the method of claim 2.

Dedrick in view of Deaton and Angles lacks an explicit recitation of the elements of claim 3.

Gardenswartz (col. 2, ll. 20-35; col. 1, ll. 39-67; FIG. 2a; FIG. 3; FIG. 7; col. 3, ll. 18-22; and col. 5, ll. 43-60) discloses: *"a cookie tracks the various IP addresses accessed by the consumer's computer . . . the Web server can deliver . . . [information] based on the IP addresses the Web browser has accessed. Thus, the cookie can be used to record the online activity of a consumer, and information regarding the consumer's tastes and tendencies can be inferred from the consumer's online activity."* The Examiner interprets Gardenswartz (col. 2, ll. 20-35; col. 1, ll. 39-67; FIG. 2a; FIG. 3; FIG. 7; col. 3, ll. 18-22; and col. 5, ll. 43-60) as suggesting: "the act of associating the unique identifier with information that defines consumer activity comprises: identifying an IP address used for establishing the connection between the consumer's computer and the one or more web sites, wherein the IP address is automatically logged in correspondence with the information that defines consumer activity; and associating the unique identifier with the

IP address such that the information that defines consumer activity can be extracted based on the association between the IP address and unique identifier."

Gardenswartz proposes explicit IP address modifications that would have applied to the method and apparatus of Dedrick. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the teachings of Gardenswartz with the disclosure of Dedrick because such combination would have provided means for *"[tracking] a consumer's online activity. . . ."* (See Gardenswartz (col. 2, ll. 19-21)).

As per claim 4, Dedrick in view of Deaton, Angles, Gardenswartz and Barber shows the method of claim 2.

Dedrick in view of Deaton and Angles lacks an explicit recitation of the elements of claim 4.

Gardenswartz (col. 2, ll. 20-35; and col. 1, ll. 39-67) discloses: *"a cookie tracks the various IP addresses accessed by the consumer's computer . . . the Web server can deliver . . . [information] based on the IP addresses the Web browser has accessed. Thus, the cookie can be used to record the online activity of a consumer, and information regarding the consumer's tastes and tendencies can be inferred from the consumer's online activity."* The Examiner interprets Gardenswartz (col. 2, ll. 20-35; col. 1, ll. 39-67; FIG. 2a; FIG. 3; FIG. 7; col. 3, ll. 18-22; col. 5, ll. 43-60) as suggesting: "the act of associating the unique identifier with information that defines consumer activity. . . ."

Gardenswartz proposes unique identifier modifications that would have applied to the method and apparatus of Dedrick. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the teachings of Gardenswartz with the disclosure of Dedrick because such combination would have provided means for *"[tracking] a consumer's online activity. . . ."* (See Gardenswartz (col. 2, ll. 19-21)).

Barber (FIG. 1; FIG 3; col. 2, ll. 5-14; and col. 2, ll. 39-59) shows elements that in view of Gardenswartz suggest: "identifying connection or environment specific information related to the established connection between the consumer's computer and the one or more web sites, wherein the connection specific information is automatically logged in correspondence with the information that defines consumer activity; and associating the unique identifier with the connection specific information such that information that defines consumer activity can be extracted based on the association between the connection specific information and the unique identifier."

Barber proposes connection and tracking modifications that would have applied to the method and apparatus of Dedrick. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the teachings of Barber with the disclosure of Dedrick because such *"consumer tracking is widely used, and is regarded as a valuable source of marketing information."* (See Barber (col. 2, ll. 55-59)).

As per claim 6, Dedrick in view of Deaton, Angles and Gardenswartz shows the method of claim 1.

Dedrick lacks an explicit recitation of the elements of claim 6.

Barber (FIG. 1; FIG. 2; FIG. 3; col. 2, ll. 26-48; and col. 3, ll. 1-4) shows elements that suggest "wherein the one or more web sites include a plurality of links to other web pages that can be located at a plurality of web servers."

Barber proposes plural server and plural web site modifications that would have applied to the method and apparatus of Dedrick. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the teachings of Barber with the disclosure of Dedrick because such *"consumer tracking is widely used, and is regarded as a valuable source of marketing information."* (See Barber (col. 2, ll. 55-59)).

As per claim 7, Dedrick in view of Deaton, Angles, Gardenswartz and Barber shows the method of claim 6.

Dedrick lacks an explicit recitation of the elements of claim 7.

Barber (FIG. 1; FIG. 2; FIG. 3; col. 1, ll. 45-67; col. 2, ll. 1-2; and col. 2, ll. 26-48) shows elements that suggest "wherein the plurality of links to other web pages includes a link to a web page from where the consumer can purchase merchandise."

Barber proposes Internet purchasing modifications that would have applied to the method and apparatus of Dedrick. It would have been obvious to a person of ordinary

skill in the art at the time of the invention to combine the teachings of Barber with the disclosure of Dedrick because such combination would have provided means for *"greatly [extending] the prior art notion of advertising on the Internet."* (See Barber (col. 4, ll. 44-45)).

As per claim 8, Dedrick in view of Deaton, Angles, Gardenswartz and Barber shows the method of claim 6.

Dedrick lacks an explicit recitation of the elements of claim 8.

Barber (FIG. 1; FIG. 2; FIG. 3; col. 1, ll. 45-67; col. 2, ll. 1-2; and col. 2, ll. 26-48) shows elements that suggest "wherein the plurality of links to other web pages includes a link to a web page from where the consumer can electronically views images of merchandise."

Barber proposes Internet advertising modifications that would have applied to the method and apparatus of Dedrick. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the teachings of Barber with the disclosure of Dedrick because such combination would have provided means for *"greatly [extending] the prior art notion of advertising on the Internet."* (See Barber (col. 4, ll. 44-45)).

As per claim 9, Dedrick in view of Deaton, Angles, Gardenswartz and Barber shows the method of claim 6.

Dedrick lacks an explicit recitation of the elements of claim 9.

Barber (FIG. 1; FIG. 2; FIG. 3; col. 1, ll. 45-67; col. 2, ll. 1-2; and col. 2, ll. 26-48) shows elements that suggest "the plurality of links to other web pages includes a link to a web page. . . ."

Barber proposes Internet advertising modifications that would have applied to the method and apparatus of Dedrick. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the teachings of Barber with the disclosure of Dedrick because such combination would have provided means for *"greatly [extending] the prior art notion of advertising on the Internet."* (See Barber (col. 4, ll. 44-45)).

Gardenswartz (col. 19, ll. 5-43; and col. 1, ll. 15-18) shows elements that suggest "the consumer can electronically contact a seller."

Gardenswartz proposes contact modifications that would have applied to the method and apparatus of Dedrick. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the teachings of Gardenswartz with the disclosure of Dedrick because such combination would have provided means for *"communicating with a computer associated with a particular consumer. . . ."* (See Gardenswartz (col. 1, ll. 15-18)).

As per claim 10, Dedrick in view of in view of Deaton, Angles and Gardneswartz shows the method of claim 1.

Dedrick lacks an explicit recitation of "information about the consumer's movement within the one or more web sites is stored in a log file."

Gardneswartz (the ABSTRACT; col. 2, ll. 3-35; FIG. 1; FIG. 2a; FIG. 3; FIG. 5; FIG. 7; FIG. 9; col. 3, ll. 18-22; col. 5, ll. 43-60; col. 8, ll. 41-56; col. 11, ll. 4-65; col. 13, ll. 50-67; and col. 14, ll. 1-67) shows elements that suggest: "information about the consumer's movement within the one or more web sites. . . ."

Gardenswartz proposes tracking modifications that would have applied to the method and apparatus of Dedrick. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the teachings of Gardenswartz with the disclosure of Dedrick because such combination would have provided means for *"[tracking] a consumer's online activity. . . ."* (See Gardenswartz (col. 2, ll. 19-21)).

Dedrick does not explicitly show information being "stored in a log file."

Barber (col. 2, ll. 5-14; and col. 2, ll. 39-59) shows elements that suggest information being "stored in a log file."

Barber proposes *"log file"* storing modifications that would have applied to the method and apparatus of Dedrick. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the teachings of Barber with the disclosure of Dedrick because such *"consumer tracking is widely used, and is regarded as a valuable source of marketing information."* (See Barber (col. 2, ll. 55-59)).

As per claim 11, Dedrick in view of in view of Deaton, Angles, Gardneswartz and Barber shows the method of claim 10.

Dedrick lacks an explicit recitation of "the log file includes the addresses of the one or more web sites.

Gardneswartz (FIG. 1; FIG. 7; FIG. 9; and col. 11, ll. 58-61) shows elements that suggest: "includes addresses of the one or more web sites."

Gardenswartz proposes web site address modifications that would have applied to the method and apparatus of Dedrick. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the teachings of Gardenswartz with the disclosure of Dedrick because such combination would have provided means for *"[tracking] a consumer's online activity. . . ."* (See Gardenswartz (col. 2, ll. 19-21)).

Dedrick does not explicitly show "a log file."

Barber (col. 2, ll. 5-14; and col. 2, ll. 39-59) shows elements that suggest "a log file."

Barber proposes *"log file"* modifications that would have applied to the method and apparatus of Dedrick. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the teachings of Barber with the disclosure of Dedrick because such *"consumer tracking is widely used, and is regarded as a valuable source of marketing information."* (See Barber (col. 2, ll. 55-59)).

As per claim 12, Dedrick in view of in view of Deaton, Angles, Gardneswartz and Barber shows the method of claim 10.

Barber (col. 2, ll. 5-14; and col. 2, ll. 39-59) shows elements that suggest information being "stored in a log file."

Barber proposes *"log file"* storing modifications that would have applied to the method and apparatus of Dedrick. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the teachings of Barber with the disclosure of Dedrick because such *"consumer tracking is widely used, and is regarded as a valuable source of marketing information."* (See Barber (col. 2, ll. 55-59)).

Dedrick lacks an explicit recitation of "wherein the log file includes information regarding number of times the consumer accesses a particular web site."

Gardenswartz (col. 2, ll. 20-35; col. 1, ll. 39-67; FIG. 2a; FIG. 3; FIG. 7; col. 3, ll. 18-22; and col. 5, ll. 43-60) discloses: *"a cookie tracks the various IP addresses accessed by the consumer's computer . . . the Web server can deliver . . . [information] based on the IP addresses the Web browser has accessed. Thus, the cookie can be used to record the online activity of a consumer, and information regarding the consumer's tastes and tendencies can be inferred from the consumer's online activity."* The Examiner interprets Gardenswartz (col. 2, ll. 20-35; col. 1, ll. 39-67; FIG. 2a; FIG. 3; FIG. 7; col. 3, ll. 18-22; and col. 5, ll. 43-60) as suggesting: "wherein the log file includes information regarding number of times the consumer accesses a particular web site." It would have been obvious to a person or ordinary skill in the art at the time of the invention that the

disclosure of Gardenswartz (FIG. 7; col. 8, ll. 41-56; col. 11, ll. 4-65; col. 13, ll. 50-67; and col. 14, ll. 1-67) would have been selected in accordance with: "wherein the log file includes information regarding number of times the consumer accesses a particular web site. . . ." because such selection would have provided means "for delivering targeted advertisements to a consumer based on his or her . . . purchase history." (See Gardenswartz (col. 2, ll. 56-61)).

As per claim 13, Dedrick in view of in view of Deaton, Angles, Gardneswartz and Barber shows the method of claim 10.

Barber (col. 2, ll. 5-14; and col. 2, ll. 39-59) shows elements that suggest information being "stored in a log file."

Barber proposes *"log file"* storing modifications that would have applied to the method and apparatus of Dedrick. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the teachings of Barber with the disclosure of Dedrick because such *"consumer tracking is widely used, and is regarded as a valuable source of marketing information."* (See Barber (col. 2, ll. 55-59)).

Dedrick lacks an explicit recitation of "wherein the log file includes information regarding any purchase the consumer makes while visiting the one or more web site[sic]."

Gardenswartz (col. 2, ll. 20-35; col. 1, ll. 39-67; FIG. 1; FIG. 2a; FIG. 3; FIG. 5; FIG. 6; FIG. 7; col. 3, ll. 18-22; and col. 5, ll. 43-60) discloses: *"a cookie tracks the various IP addresses accessed by the consumer's computer . . . the Web server can*

deliver . . . [information] based on the IP addresses the Web browser has accessed. Thus, the cookie can be used to record the online activity of a consumer, and information regarding the consumer's tastes and tendencies can be inferred from the consumer's online activity." The Examiner interprets Gardenswartz (col. 2, ll. 20-35; col. 1, ll. 39-67; FIG. 1; FIG. 2a; FIG. 3; FIG. 5; FIG. 6; FIG. 7; col. 3, ll. 18-22; and col. 5, ll. 43-60) as suggesting: "wherein the log file includes information regarding any purchase the consumer makes while visiting the one or more web site[sic]." It would have been obvious to a person or ordinary skill in the art at the time of the invention that the disclosure of Gardenswartz (col. 2, ll. 20-35; col. 1, ll. 39-67; FIG. 1; FIG. 2a; FIG. 3; FIG. 5; FIG. 6; FIG. 7; col. 3, ll. 18-22; col. 5, ll. 43-60; col. 8, ll. 41-56; col. 11, ll. 4-65; col. 13, ll. 50-67; and col. 14, ll. 1-67) would have been selected in accordance with: "wherein the log file includes information regarding any purchase the consumer makes while visiting the one or more web site[sic]. . . ." because such selection would have provided means "for delivering targeted advertisements to a consumer based on his or her . . . purchase history." (See Gardenswartz (col. 2, ll. 56-61)).

As per claim 14, Dedrick in view of in view of Deaton, Angles, Gardneswartz and Barber shows the method of claim 10.

Dedrick (col. 9, ll. 27-41) shows elements that suggest "the duration of the consumer's visit to a particular web site."

Dedrick lacks an explicit recitation of the elements of claim 14.

Barber (col. 2, ll. 5-14; and col. 2, ll. 39-59) shows elements that suggest information being "stored in a log file" and "duration of the consumer's visit to a particular web site."

Barber proposes *"log file"* storing and duration modifications that would have applied to the method and apparatus of Dedrick. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the teachings of Barber with the disclosure of Dedrick because such *"consumer tracking is widely used, and is regarded as a valuable source of marketing information."* (See Barber (col. 2, ll. 55-59)).

Gardenswartz (col. 2, ll. 20-35; col. 1, ll. 39-67; FIG. 2a; FIG. 3; FIG. 7; col. 3, ll. 18-22; and col. 5, ll. 43-60) discloses: *"a cookie tracks the various IP addresses accessed by the consumer's computer . . . the Web server can deliver . . . [information] based on the IP addresses the Web browser has accessed. Thus, the cookie can be used to record the online activity of a consumer, and information regarding the consumer's tastes and tendencies can be inferred from the consumer's online activity."* The Examiner interprets Dedrick (col. 9, ll. 27-41) in view of Gardenswartz (col. 2, ll. 20-35; col. 1, ll. 39-67; FIG. 2a; FIG. 3; FIG. 7; col. 3, ll. 18-22; and col. 5, ll. 43-60) and further in view of Barber (col. 2, ll. 5-14; and col. 2, ll. 39-59) as suggesting: "wherein the log file includes the duration of the consumer's visit to a particular web site." It would have been obvious to a person or ordinary skill in the art at the time of the invention that the

disclosure of Gardenswartz (FIG. 7; col. 8, ll. 41-56; col. 11, ll. 4-65; col. 13, ll. 50-67; and col. 14, ll. 1-67) in view of Dedrick (col. 9, ll. 27-41) and further in view of Barber (col. 2, ll. 5-14; and col. 2, ll. 39-59) would have been selected in accordance with: "wherein the log file includes the duration of the consumer's visit to a particular web site. . . ." because such selection would have provided means for *"[recording] the online activity of a consumer, and information regarding the consumer's tastes and tendencies can be inferred from the consumer's online activity."* (See Gardenswartz (col. 2, ll. 20-35; col. 1, ll. 39-67; FIG. 2a; FIG. 3; FIG. 7; col. 3, ll. 18-22; and col. 5, ll. 43-60)).

As per claim 15, Dedrick in view of in view of Deaton, Angles, Gardneswartz and Barber shows the method of claim 10.

Dedrick (col. 7, ll. 1-15; col. 17, ll. 63-67; col. 18, ll. 1-10; col. 18, ll. 25-33; the ABSTRACT; col. 2, ll. 1-10; 3, ll. 29-59; col. 4, ll. 15-36; col. 4, ll. 48-59; col. 6, ll. 32-67; col. 7, ll. 16-67; col. 8, ll. 17-27; and col. 8, ll. 41-65) shows elements that suggest "developing a consumer master database. . . ." and "determining consumer preferences."

Dedrick lacks an explicit recitation of the elements of claim 15.

Barber (col. 2, ll. 5-14; and col. 2, ll. 39-59) shows elements that suggest information being "a log file."

Barber proposes *"log file"* modifications that would have applied to the method and apparatus of Dedrick. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the teachings of Barber with the disclosure of

Dedrick because such *"consumer tracking is widely used, and is regarded as a valuable source of marketing information."* (See Barber (col. 2, ll. 55-59)).

Gardenswartz (col. 2, ll. 18-35; the ABSTRACT; FIG. 1; FIG. 5; FIG. 9; col. 11, ll. 4-65) shows elements that suggest: "A method for electronically profiling consumer interests. . . ."

Gardenswartz (col. 1, ll. 40-67) shows elements that suggest "querying the master database. . . ." The Examiner interprets Dedrick (col. 7, ll. 1-15; col. 17, ll. 63-67; col. 18, ll. 1-10; col. 18, ll. 25-33; the ABSTRACT; col. 2, ll. 1-10; 3, ll. 29-59; col. 4, ll. 15-36; col. 4, ll. 48-59; col. 6, ll. 32-67; col. 7, ll. 16-67; col. 8, ll. 17-27; and col. 8, ll. 41-65) in view of Gardenswartz (col. 1, ll. 40-67; col. 2, ll. 18-35; the ABSTRACT; FIG. 1; FIG. 5; FIG. 9; col. 11, ll. 4-65) and further in view of Barber (col. 2, ll. 5-14; and col. 2, ll. 39-59) as suggesting: "developing a consumer master database based upon the log file; querying the master database; and determining consumer preferences." It would have been obvious to a person or ordinary skill in the art at the time of the invention that the disclosure of Gardenswartz (col. 1, ll. 40-67; col. 2, ll. 18-35; the ABSTRACT; FIG. 1; FIG. 5; FIG. 9; col. 11, ll. 4-65) in view of Dedrick (col. 7, ll. 1-15; col. 17, ll. 63-67; col. 18, ll. 1-10; col. 18, ll. 25-33; the ABSTRACT; col. 2, ll. 1-10; 3, ll. 29-59; col. 4, ll. 15-36; col. 4, ll. 48-59; col. 6, ll. 32-67; col. 7, ll. 16-67; col. 8, ll. 17-27; and col. 8, ll. 41-65) and further in view of Barber (col. 2, ll. 5-14; and col. 2, ll. 39-59) would have been selected in accordance with: "developing a consumer master database based upon the log file; querying the master database; and determining consumer preferences. . . ." because

such selection would have provided means for *"[recording] the online activity of a consumer, and information regarding the consumer's tastes and tendencies can be inferred from the consumer's online activity."* (See Gardenswartz (col. 2, ll. 20-35; col. 1, ll. 39-67; FIG. 2a; FIG. 3; FIG. 7; col. 3, ll. 18-22; and col. 5, ll. 43-60)).

As per claim 16, Dedrick in view of Deaton, Angles, Gardneswartz and Barber shows the method of claim 15.

Dedrick lacks an explicit recitation of the elements of claim 16.

Gardenswartz (col. 5, ll. 43-60; FIG. 9; and col. 3, ll. 45-60) discloses elements that suggest "wherein the master database includes a plurality of segments including an email look up segment that includes a listing of a plurality of consumer electronic mail addresses with corresponding unique identifiers."

Gardenswartz proposes unique identifier and e-mail modifications that would have applied to the method and apparatus of Dedrick. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the teachings of Gardenswartz with the disclosure of Dedrick because such combination would have provided means for *"[tracking] a consumer's online activity. . . ."* (See Gardenswartz (col. 2, ll. 19-21)).

Claim 17 is rejected for substantially the same reasons as claim 15.

Claim 18 is rejected for substantially the same reasons as claim 15.

Claim 19 is rejected for substantially the same reasons as claim 13.

Claim 20 is rejected for substantially the same reasons as claim 16.

Claim 21 is rejected for substantially the same reasons as claim 7.

Claim 23 is rejected for substantially the same reasons as claim 2.

Claim 24 is rejected for substantially the same reasons as claim 3.

Claim 25 is rejected for substantially the same reasons as claim 4.

Claim 27 is rejected for substantially the same reasons as claim 6.

Claim 28 is rejected for substantially the same reasons as claim 7.

Claim 29 is rejected for substantially the same reasons as claim 8.

Claim 30 is rejected for substantially the same reasons as claim 9.

Claim 31 is rejected for substantially the same reasons as claim 10.

Claim 32 is rejected for substantially the same reasons as claim 11.

Claim 33 is rejected for substantially the same reasons as claim 12.

Claim 34 is rejected for substantially the same reasons as claim 13.

Claim 35 is rejected for substantially the same reasons as claim 14.

Claim 36 is rejected for substantially the same reasons as claim 15.

Claim 37 is rejected for substantially the same reasons as claim 16.

Claim 38 is rejected for substantially the same reasons as claim 17.

Claim 39 is rejected for substantially the same reasons as claim 18.

Claim 40 is rejected for substantially the same reasons as claim 19.

Claim 41 is rejected for substantially the same reasons as claim 20.

Claim 42 is rejected for substantially the same reasons as claim 21.

Claim 43 is rejected for substantially the same reasons as claim 21.

Claim 44 is rejected for substantially the same reasons as claim 21.

As per claim 47, Dedrick in view of Deaton, Angles and Gardenswartz shows the method of claim 45.

Dedrick in view of Deaton and Angles lacks an explicit recitation of the elements of claim 47.

Barber (col. 2, ll. 5-14; and col. 2, ll. 39-59) shows elements that suggest "storing in a log file the unique identifier in association with the information that defines consumer activity. . . ."

Barber proposes *"log file"* and tracking modifications that would have applied to the method and apparatus of Dedrick. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the teachings of Barber with the disclosure of Dedrick because such *"consumer tracking is widely used, and is regarded as a valuable source of marketing information."* (See Barber (col. 2, ll. 55-59)).

Gardenswartz (col. 2, ll. 20-35; col. 1, ll. 39-67; FIG. 2a; FIG. 3; FIG. 7; col. 3, ll. 18-22; and col. 5, ll. 43-60) discloses: *"a cookie tracks the various IP addresses accessed by the consumer's computer . . . the Web server can deliver . . . [information] based on the IP addresses the Web browser has accessed. Thus, the cookie can be used to record the online activity of a consumer, and information regarding the consumer's tastes and tendencies can be inferred from the consumer's online activity."* The Examiner interprets Gardenswartz (col. 2, ll. 20-35; col. 1, ll. 39-67; FIG. 2a; FIG. 3; FIG. 7; col. 3, ll. 18-22; and col. 5, ll. 43-60) in view of Barber (col. 2, ll. 5-14; and col. 2, ll. 39-59) as suggesting: "identifying connection or environment specific information related to the established connection between the consumer's computer and the one or more web sites, wherein the connection specific information is automatically logged in correspondence with the information that defines consumer activity; and associating the unique identifier with the connection or environment specific information that defines consumer activity can be extracted based on the association between the connection or environment information and the unique identifier."

Gardenswartz proposes unique identifier and connection and environment modifications that would have applied to the method and apparatus of Dedrick. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the teachings of Gardenswartz with the disclosure of Dedrick because such combination would have provided means for *"[tracking] a consumer's online activity. . . ."* (See Gardenswartz (col. 2, ll. 19-21)).

As per claim 48, Dedrick in view of Deaton, Angles and Gardenswartz shows the method of claim 47.

Dedrick in view of Deaton and Angles lacks an explicit recitation of the elements of claim 48.

Gardenswartz (col. 2, ll. 20-35; col. 1, ll. 39-67; FIG. 2a; FIG. 3; FIG. 7; col. 3, ll. 18-22; and col. 5, ll. 43-60) discloses: *"a cookie tracks the various IP addresses accessed by the consumer's computer . . . the Web server can deliver . . . [information] based on the IP addresses the Web browser has accessed. Thus, the cookie can be used to record the online activity of a consumer, and information regarding the consumer's tastes and tendencies can be inferred from the consumer's online activity."* The Examiner interprets Gardenswartz (col. 2, ll. 20-35; col. 1, ll. 39-67; FIG. 2a; FIG. 3; FIG. 7; col. 3, ll. 18-22; and col. 5, ll. 43-60) as suggesting: "wherein the connection or environment specific information relates to IP address[sic] of the consumer's computer."

Gardenswartz proposes IP address, as well as, connection and environment modifications that would have applied to the method and apparatus of Dedrick. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the teachings of Gardenswartz with the disclosure of Dedrick because such combination would have provided means for *"[tracking] a consumer's online activity. . . ."* (See Gardenswartz (col. 2, ll. 19-21)).

Claim 49 is rejected for substantially the same reasons as claim 7.

As per claim 50, Dedrick in view of Deaton, Angles, Gardenswartz and Barber shows the method of claim 47.

Dedrick lacks an explicit recitation of the elements of claim 50.

Gardenswartz (col. 5, ll. 43-60; and col. 3, ll. 45-60) discloses elements that suggest "the unique identifier relates to [sic] electronic mail address of the consumer."

Gardenswartz proposes unique identifier and e-mail modifications that would have applied to the method and apparatus of Dedrick. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the teachings of Gardenswartz with the disclosure of Dedrick because such combination would have provided means for *"[tracking] a consumer's online activity. . . ."* (See Gardenswartz (col. 2, ll. 19-21)).

Claim 51 is rejected for substantially the same reasons as claim 4.

6. Independent claims 52 and 54 and dependent claim 53, 55 & 56 are rejected under 35 U.S.C. §103(a) as being unpatentable over Deaton in view of Barber and further in view of Gardneswartz.

As per claim 52, Deaton (FIG. 8B; FIG. 8C; and FIG. 1) shows elements that suggest electronic mail elements and limitations as claimed in claim 52.

Deaton proposes e-mail generation modifications that would have applied to the method and system of Dedrick. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the teachings of Deaton with the method and system of Dedrick because such combination would have provided means wherein *"[customers] may be induced to loyalty to a particular store. . . ."* (see Deaton (col. 19, ll. 1-10)) and because such combination would have provided means for comparing *"The characteristics of the individual end users with a consumer scale associated with the electronic advertisement."* (See Dedrick (col. 2, ll. 5-7)).

Deaton lacks an explicit recitation of the elements and limitations of claim 52.

Barber (col. 2, ll. 5-14; and col. 2, ll. 39-59) shows elements that suggest "storing in a log file the unique identifier in association with the information that defines consumer activity. . . ."

Barber proposes *"log file"* modifications that would have applied to the method and apparatus of Deaton. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the teachings of Barber with the disclosure of Deaton because such *"consumer tracking is widely used, and is regarded as a valuable source of marketing information."* (See Barber (col. 2, ll. 55-59)).

Gardenswartz (FIG. 2a; FIG. 3; FIG. 7; col. 3, ll. 18-22; col. 5, ll. 43-60) discloses a unique *"Customer Identification. . . . CID. . . ."* number.

Gardenswartz proposes *"Customer Identification. . . . CID. . . ."* modifications that would have applied to the method and apparatus of Deaton. It would have been

obvious to a person of ordinary skill in the art at the time of the invention to combine the teachings of Gardenswartz with the disclosure of Deaton because such combination would have provided means for *"[tracking] a consumer's online activity. . . ."* (See Gardenswartz (col. 2, ll. 19-21)).

Gardenswartz (FIG. 1; FIG. 7; FIG. 8; FIG. 9; col. 8, ll. 41-56; col. 11, ll. 4-65; col. 13, ll. 50-67; and col. 14, ll. 1-67) in view of Deaton (FIG. 8B; FIG. 8C; and FIG. 1) and further in view of Barber (col. 2, ll. 5-14; and col. 2, ll. 39-59) shows elements that suggest:

> A unique identifier embedded in a URL provided to a consumer in an email message, such that when the consumer selects the URL a connection is established between a consumer computer having a first IP address and a web server, wherein the web server receives the URL via said established connection and parses the URL for the unique identifier, and wherein the IP address is recorded in a log file in association with the unique identifier.

Gardenswartz lacks an explicit recitation of:

> A unique identifier embedded in a URL provided to a consumer in an email message, such that when the consumer selects the URL a

> connection is established between a consumer computer having a first IP address and a web server, wherein the web server receives the URL via said established connection and parses the URL for the unique identifier, and wherein the IP address is recorded in a log file in association with the unique identifier.

It would have been obvious to a person of ordinary skill in the art at the time of the invention that Gardenswartz (FIG. 1; FIG. 7; FIG. 8; FIG. 9; col. 8, ll. 41-56; col. 11, ll. 4-65; col. 13, ll. 50-67; and col. 14, ll. 1-67) in view of Deaton (FIG. 8B; FIG. 8C; and FIG. 1) and further in view of Barber (col. 2, ll. 5-14; and col. 2, ll. 39-59) would have been selected in accordance with:

> A unique identifier embedded in a URL provided to a consumer in an email message, such that when the consumer selects the URL a connection is established between a consumer computer having a first IP address and a web server, wherein the web server receives the URL via said established connection and parses the URL for the unique identifier, and wherein the IP address is recorded in a log file in association with the unique identifier. . . .

because such selection would have provided means for *"[tracking] a consumer's online activity. . . ."* (See Gardenswartz (col. 2, ll. 19-21)).

As per claim 53, Deaton in view of Barber and further in view of Gardneswartz shows the unique identifier of claim 52.

Deaton lacks an explicit recitation of the elements and limitations of claim 53.

Gardenswartz (FIG. 1; FIG. 7; FIG. 8; FIG. 9; col. 2, ll. 19-35; col. 8, ll. 41-56; col. 11, ll. 4-65; col. 13, ll. 50-67; and col. 14, ll. 1-67) shows elements that suggest: "the unique identifier of claim 52, wherein [sic] consumer's activity within one or more web sites accessible via the web server is tracked based on the association between the IP address and the unique identifier."

Gardenswartz proposes consumer activity tracking modifications that would have applied to the method and system of Deaton. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the disclosure of Gardenswartz with the teachings of Deaton because such combination would have provided means for *"[tracking] a consumer's online activity. . . ."* (See Gardenswartz (col. 2, ll. 19-21)).

Claim 54 is rejected for substantially the same reasons as claim 52.

As per claim 55, Deaton in view of Barber and further in view of Gardneswartz shows the unique identifier of claim 54.

Deaton lacks an explicit recitation of the elements and limitations of claim 55.

Barber (col. 2, ll. 5-14; and col. 2, ll. 39-59) shows elements that suggest "storing in a log file the unique identifier in association with the information that defines consumer activity. . . ."

Barber proposes *"log file"* modifications that would have applied to the method and apparatus of Deaton. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the teachings of Barber with the disclosure of Deaton because such *"consumer tracking is widely used, and is regarded as a valuable source of marketing information."* (See Barber (col. 2, ll. 55-59)).

Gardenswartz (FIG. 1; FIG. 7; FIG. 8; FIG. 9; col. 2, ll. 19-35; col. 8, ll. 41-56; col. 11, ll. 4-65; col. 13, ll. 50-67; and col. 14, ll. 1-67) shows elements that suggest: "the unique identifier. . . ."

Gardenswartz proposes consumer activity tracking via unique identifier modifications that would have applied to the method and system of Deaton. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the disclosure of Gardenswartz with the teachings of Deaton because such combination would have provided means for *"[tracking] a consumer's online activity. . . ."* (See Gardenswartz (col. 2, ll. 19-21)), and it would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of

Gardenswartz (FIG. 1; FIG. 7; FIG. 8; FIG. 9; col. 2, ll. 19-35; col. 8, ll. 41-56; col. 11, ll. 4-65; col. 13, ll. 50-67; and col. 14, ll. 1-67) in view of the disclosure of Barber (col. 2, ll. 5-14; and col. 2, ll. 39-59) would have been selected in accordance with: "searching one or more log files generated by the web server for the unique identifier to determine consumer movement within one or more web sites accessible via the URL. . . ." because such selection would have provided means for *"[tracking] a consumer's online activity. . . ."* (See Gardenswartz (col. 2, ll. 19-21))

As per claim 56, Deaton in view of Barber and further in view of Gardneswartz shows the unique identifier of claim 55.

Deaton lacks an explicit recitation of the elements and limitations of claim 56.

Barber (col. 2, ll. 5-14; and col. 2, ll. 39-59) shows elements that suggest "storing in a log file the unique identifier in association with the information that defines consumer activity. . . ."

Barber proposes *"log file"* modifications that would have applied to the method and apparatus of Deaton. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the teachings of Barber with the disclosure of Deaton because such *"consumer tracking is widely used, and is regarded as a valuable source of marketing information."* (See Barber (col. 2, ll. 55-59)).

Gardenswartz (FIG. 1; FIG. 7; FIG. 8; FIG. 9; col. 2, ll. 19-35; col. 8, ll. 41-56; col. 11, ll. 4-65; col. 13, ll. 50-67; and col. 14, ll. 1-67) shows elements that suggest: "the unique identifier. . . ."

Gardenswartz proposes consumer activity tracking via unique identifier modifications that would have applied to the method and system of Deaton. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the disclosure of Gardenswartz with the teachings of Deaton because such combination would have provided means for *"[tracking] a consumer's online activity. . . ."* (See Gardenswartz (col. 2, ll. 19-21)), and it would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of Gardenswartz (FIG. 1; FIG. 7; FIG. 8; FIG. 9; col. 2, ll. 19-35; col. 8, ll. 41-56; col. 11, ll. 4-65; col. 13, ll. 50-67; and col. 14, ll. 1-67) in view of the disclosure of Barber (col. 2, ll. 5-14; and col. 2, ll. 39-59) would have been selected in accordance with: "wherein one or more log files include information that defines consumer activity for one or more consumers, and wherein information that defines consumer activity for a particular consumer can be identified by the unique identifier for the particular consumer in association with the IP address. . . ." because such selection would have provided means for *"[tracking] a consumer's online activity. . . ."* (See Gardenswartz (col. 2, ll. 19-21)). In this case, the Examiner interprets the *"URL"* disclosure of Gardenswartz as suggesting "the IP address."

RESPONSE TO ARGUMENTS

7. Applicant's arguments filed have been fully considered but they are not persuasive for the following reasons:

In response to Applicant's argument that the Examiner provide an affidavit in support of the Examiner's "well known", i.e., Official Notice evidence, the Examiner presents the following pursuant to MPEP 2144.03:

The request is moot to provide a reference for the official notice evidence of claims 2-5 and 57-74 because the Applicant has deleted the elements of said claims which were the object of official notice evidence.

As per claims 6-8, the Examiner has supplied the Barber reference in support of the Official Notice evidence submitted in the prior Office Action. (See the rejections of claims 6-8 supra).

As per claims 9-21 and 47-51 in addition to the Dedrick and Deaton references, the Examiner has supplied the Barber and Gardenswartz references in support of the Official Notice evidence submitted in the prior Office Action. (See the rejection of claims 9-21 and 47-51 supra).

As per claims 22-46, the Examiner has supplied the Gardenswartz reference in support of the Official Notice evidence submitted in the prior Office Action. (See the rejection of claims 22-46 supra).

In response to Applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the Examiner relies upon the references themselves, as well as the knowledge generally available to one of ordinary skill in the art. Furthermore, throughout the prior Office Action, the Examiner has repeatedly, for each rejection, pointed out in the references with specificity where such suggestions to combine are found in the references.

In response to Applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned

only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

THIS ACTION MADE FINAL

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

CONCLUSION

8. Any response to this action should be mailed to:

Box AF

Commissioner of Patents and Trademarks

Washington, D.C. 20231

Any response to this action may be sent via facsimile to either:

(703) 746-7239 or (703) 872-9314 (for formal communications EXPEDITED PROCEDURE) or

(703) 746-7239 (for formal communications marked AFTER-FINAL) or

(703) 746-7240 (for informal communications marked PROPOSED or DRAFT).

Hand delivered responses may be brought to:

Sixth floor Receptionist
Crystal Park II
2121 Crystal Drive
Arlington, Virginia.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John L. Young who may be reached via telephone at (703) 305-3801. The examiner can normally be reached Monday through Friday between 8:30 A.M. and 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber, may be reached at (703) 305-8469.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.

John L. Young

Patent Examiner

May 14, 2002

ERIC W. STAMBER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100